

REMARKS

This Amendment is in response to the Office Action dated May 27, 2009, setting a deadline for response of August 27, 2009. Consideration and entry of the enclosed amendments and remarks is respectfully requested.

Applicants wish to thank Examiner for the determination of allowance of claims 6-11. Claims 2, 3, 5 and 12 are objected to as being allowable but being dependent on a rejected claim. Claims 2, 5 and 12 have been amended to include all the elements of claim 1, thus making claims 2, 5 and 12 independent claims. Claim 1 has been cancelled, and Applicants reserve the right to present it in a later-filed application.

In the Office Action, Examiner rejected claim 1 under 35 U.S.C. §103(a) as being unpatentable over Koch in view of Yamada et al.

Applicants have cancelled claim 1, and as such, respectfully request this rejection be withdrawn.

Claims 2, 5, and 12 have been rewritten in independent form, each containing every element from claim 1, and as stated by Examiner, should be allowable in view of this rejection.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Application No.: 10/771,597

Docket No.: SPINE 3.0-447 CONT

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Respectfully submitted,
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